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Attorneys for Defendants
C. R. Bard, Inc. and
Bard Peripheral Vascular, Inc.

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ARIZONA

IN RE: Bard IVC Filters Products Liability
Litigation,

No. 2:15-MD-02641-DGC

**THE PARTIES' JOINT
PROPOSAL REGARDING THE
CREATION OF AN INACTIVE
DOCKET**

(Assigned to the Honorable David G.
Campbell)

1 In Case Management Order No. 41 (Doc. 15176), the Court directed the parties to
2 submit a joint proposal for establishing “a separate track” for the handling of cases that
3 have been settled in principle, or which appear close to settlement. The parties are
4 therefore submitting this proposal in compliance with the Court’s order.

5 **I. BACKGROUND**

6 The parties are well aware, the Court intends to begin the process of remanding
7 cases back to their respective transferor district courts following the trial of the *Tinlin*
8 case. However, there are cases currently pending in the MDL that are settled in principle
9 or likely to settle in the near term. To avoid unnecessary administrative burdens on the
10 courts (both this Court and the transferor courts), and to avoid unnecessary litigation
11 costs, the parties respectfully submit this proposal with the hope that the Court will
12 consider the establishment of an “inactive docket” for such cases. Specifically, an inactive
13 docket would allow cases that are either tentatively settled or part of productive settlement
14 negotiations to be stayed and remain in the MDL for a brief period of time pending the
15 filing of dismissals and/or the conclusion of settlement-related negotiations. Pursuant to
16 the Court’s request, what follows is merely a proposal for such a process, and the parties
17 stand ready to address any questions the Court may have regarding this issue.

18 **II. THE MECHANICS**

19 Under this proposal, the parties request that the Court establish and place the
20 following cases on an inactive docket: (i) any case or group of cases that have tentatively
21 settled and resolved in principle pursuant to an executed release or term sheet
22 (“Tentatively Resolved Cases”); and (ii) any case or group of cases that are the subject of
23 substantive settlement negotiations and both sides agree that the settlement discussions
24 have progressed to a point that execution of a release or term sheet (covering multiple
25 cases) is likely (“Cases Near Settlement”). On or before a date set by the Court
26 (following the completion of the *Tinlin* trial), the parties would jointly submit to the Court
27 a list identifying all such Tentatively Resolved Cases and/or Cases Near Settlement,
28

1 including the name of the case, the case number and the status of the settlement
2 (hereinafter, the “Inactive Docket List”).

3 If the Court agrees to establish and place the cases on an inactive docket, the
4 Parties propose the following procedure for the cases identified on the Inactive Docket
5 List:

- 6 • The Court would not conduct further proceedings in the actions.
- 7 • Any fact sheet deadlines would be continued until further order of the
8 Court.
- 9 • For all Tentatively Resolved Cases, the Parties would have four months
10 from the date of any Order establishing an inactive docket to file agreed
11 upon orders of dismissal with prejudice.
- 12 • For all Cases Near Settlement, the Parties would have three months from
13 the date of any Order establishing an inactive docket to finalize those
14 settlements, and sign releases and/or term sheets (covering multiple
15 cases). Once releases and/or term sheets are executed, the Parties would
16 have an additional six (6) months to file agreed upon orders of dismissal
17 with prejudice.
- 18 • If the period for filing dismissals has concluded and certain cases remain on
19 the inactive docket, the parties would submit a proposal to the Court
20 regarding the appropriate action pertaining to the remaining cases.
- 21 • The Court would reinstate any of the Tentatively Resolved Cases and/or
22 Cases Near Settlement to the active docket if either party affirmatively
23 elects to reinstate the case(s) and proceed with remand by submitting a
24 “Notice of Election to Proceed with Remand” to the Court. The parties
25 agree that any notice to proceed with remand shall not disclose confidential
26 settlement discussions, pursuant to Federal Rule of Evidence 408.
- 27 • The Parties would provide monthly or every 60 days reports to the Court as
28 to their progress in dismissing the cases on the inactive docket.

1 **III. CONCLUSION**

2 The parties believe this procedure would reduce the burden on both this Court and
 3 the transferor courts by eliminating the need to remand cases that will likely not be further
 4 litigated. Such a procedure would also save the parties from incurring unnecessary costs
 5 associated with the remand of these cases. The procedure would also preserve the right of
 6 plaintiffs who have not tentatively settled their cases, and who do not believe their cases
 7 are nearing settlement, to proceed with a prompt remand of their actions to the respective
 8 transferor courts.

9 As previously noted, the parties stand ready to address any questions or concerns
 10 the Court may have.

11 RESPECTFULLY SUBMITTED this 1st day of March, 2019.

12
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CERTIFICATE OF SERVICE

I hereby certify that on this 1st day of March, 2019, the foregoing was electronically filed with the Clerk of Court using the CM/ECF system which will automatically send e-mail notification of such filing to all attorneys of record.

s/Richard B. North, Jr.
Richard B. North, Jr.